



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2015-0130]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated September 25, 2015, BNSF Railway (BNSF) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 213, Track Safety Standards. FRA assigned the petition Docket Number FRA-2015-0130.

Pursuant to 49 CFR 213.113(a), BNSF requests a waiver from the accepted practice of stop/start rail testing to deploy nonstop continuous test rail flaw inspection to begin November 1, 2015, and to be in effect for 3 years.

The test process would occur on the main tracks of the following subdivisions: Panhandle, Hereford, Clovis, Gallup, Seligman, Fort Scott, Thayer North, Thayer South, Birmingham, Amory, Cuba, River, Cherokee, and Afton.

BNSF will gradually deploy the process over time as they measure the results and prioritize the areas expected to benefit the most from this alternative method. BNSF will notify FRA when implementing on a specific subdivision. Multiple data acquisition and/or field verification vehicles may be used as required to accomplish the desired

testing production rates.

Currently, the BNSF subdivisions proposed for nonstop testing are required by 49 CFR 213.237, *Inspection of rail*, to be tested every 60 to 365 days. BNSF is proposing to test these subdivisions every 30–45 days.

The nonstop continuous tests will be conducted with self-propelled ultrasonic rail flaw detection vehicles capable of data acquisition speeds up to 30 mph. Upon completion of each daily run, the acquired data will be analyzed offline by technical experts with specific analysis tools proven to be effective on a worldwide basis for over 10 years, including the most recent several years of experience in the United States. The analysis process will provide the categorization and prioritization of suspect locations to be verified in the field.

Field verification will be conducted by qualified and certified rail test professionals with validation equipment based on global positioning system location and known track features identified within the flaw detection electronic record. All verifications will occur within 72 hours from completion of the data acquisition test run. Remedial actions will be applied based on the regulations set for in 49 CFR 213.113, *Defective rails*, for confirmed rail defect locations.

BNSF believes nonstop continuous rail testing will provide the capability to reduce service failure and derailment risk through implementation of advanced technologies and processes that enable BNSF to more completely and frequently conduct the inspection for their rail network.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S.

Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue, SE., W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2015-0130) and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
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- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12-140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue, SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by [INSERT DATE 30 DAYS FROM PUBLICATION OF THIS NOTICE] will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy. See also <http://www.regulations.gov/#!privacyNotice> for the privacy notice of regulations.gov.

Issued in Washington, DC.

Robert C. Lauby,
Associate Administrator for Railroad Safety,
Chief Safety Officer.

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